

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

DEPOSITORS INSURANCE COMPANY)	
A/S/O EVE CONDOMINIUM)	
ASSOCIATION, INC.,)	Case No.:
)	
Plaintiff,)	
)	JUDGE
vs.)	
)	MAGISTRATE
KATHLEEN M. SCHLIEP, and)	
LG ELECTRONICS USA, INC.,)	JURY DEMAND
)	
Defendants,)	
)	
and)	
)	
KATHLEEN M. SCHLIEP,)	
)	
Cross-Plaintiff,)	
)	
v.)	
)	
LG ELECTRONICS USA, INC.,)	
)	
Cross-Defendant.)	

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant LG Electronics USA, Inc., by and through counsel, hereby files this Notice of Removal of this action from the Circuit Court in Davidson County, Tennessee, where it is now pending, to the United States District Court for the Middle District of Tennessee based upon diversity of citizenship and an amount in controversy exceeding \$75,000. As grounds for removal, Defendant states as follows:

1. This action was commenced against Defendant Kathleen M. Schliep and Airbnb, Inc. on December 4, 2023 in the Circuit Court for Davidson County, Tennessee, Case Number 23C2812. On June 17, 2024, Airbnb, Inc. was voluntarily dismissed. On April 16, 2025, an Amended Complaint was filed, adding LG Electronics USA, Inc. as a Defendant. A Summons was issued to LG Electronics USA, Inc. on April 16, 2025. A copy of all process and pleadings in the Davidson County Circuit Court case are attached hereto as **Exhibit A**.

2. Defendant LG Electronics USA, Inc. was never served with the initial Complaint because it was not a party to this lawsuit until the filing of the Amended Complaint on April 16, 2025. The Amended Complaint was served on Defendant on April 21, 2025. *Each* defendant has thirty days after being served to file a notice of removal. 28 U.S.C. §1446(b)(2)(B). Defendant is filing this Notice of Removal within thirty (30) days of being served with the Summons and Complaint. Further, the one-year removal bar set forth in U.S.C.S. §1446(c)(1) is not applicable because the plain language of 28 U.S.C.S. §1446(c)(1) expressly limits the one-year removal bar to diversity cases removed under 28 U.S.C. §1446(b)(3) (i.e., the case stated by the initial pleading is not removable, but later becomes removable).¹ Therefore, this Notice of Removal is timely filed under 28 U.S.C. § 1446.

3. This Court has diversity of citizenship jurisdiction pursuant to 28 U.S.C. § 1332 and 28 U.S.C. § 1441, as there is complete diversity of the parties and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

4. Plaintiff Depositors Insurance Company is a corporation organized under the laws of the State of Iowa with its principal place of business in Des Moines, Polk County, Iowa. See

¹ The case stated by the initial Complaint was removable based on diversity jurisdiction. Airbnb, Inc., the only additional party listed in the initial Complaint, who has since been nonsuited, is a corporation organized under the laws of the state of Delaware with its principal place of business in California.

Exhibit B. Plaintiff seeks subrogation of all amounts allegedly paid to its insured, including the applied deductible, for a total of \$156,111.96. Plaintiff Depositors Insurance Company is the real party in interest because it is subrogated to the rights of its insured after payment of a loss. Further, 28 U.S.C. § 1332(c) states that a corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business. The additional requirement set forth in 28 U.S.C. § 1332(c)(1)(A), which state that, in any direct action against the insurer of a policy or contract of liability insurance, to which action the insured is not joined as a party-defendant, such insurer shall also be deemed a citizen of every State and foreign state of which the insured is a citizen, does not apply. *See Aetna Cas. & Sur. Ins. Co. v. Greene*, 606 F.2d 123 (6th Cir. 1979) (holding that a court cannot apply 28 U.S.C. § 1332(c) to actions brought by liability insurers when the explicit statutory language directs that the section applies to direct actions against such insurers). Accordingly, Plaintiff is a citizen of Iowa.²

5. Defendant Kathleen M. Schliep is a citizen and resident of Fort Myers, Lee County, Florida. *See* Ex. A.

6. Defendant LG Electronics USA, Inc. is a corporation organized under the laws of the state of Delaware with its principal place of business located in Englewood Cliffs, Bergen County, New Jersey. *See* **Exhibit C.**

7. The Complaint contemplates an amount in controversy in excess of \$75,000, exclusive of interest and costs, in that Plaintiff specifically seeks compensatory damages in the amount of \$156,111.96. *See* Ex. A.

² Nonetheless, considering the citizenship of subrogor Eve Condominium Associates, Inc. does not destroy diversity. Eve Condominium Association, Inc. is a corporation organized under the laws of the state of Tennessee with its principal place of business in Williamson County, Tennessee.

8. If defendants are served at different times, and a later-served defendant files a notice of removal, any earlier-served defendant may consent to the removal even though that earlier-served defendant did not previously initiate or consent to removal. 28 U.S.C. § 1446(b)(2)(C). Co-Defendant Kathleen M. Schliep has consented to the removal. *See* **Exhibit D** attached hereto, Co-Defendant's Notice of Consent to Removal.

9. The United States District Court for the Middle District of Tennessee, Nashville Division, is the district and division embracing Davidson County, Tennessee, the place where the state court action is currently pending. 28 U.S.C. § 1441(a).

10. A copy of this Notice of Removal is being served via email and United States mail on counsel for Plaintiff and a Notice of Filing the Notice of Removal is being filed with the Circuit Court of Davidson County, Tennessee, as required by 28 U.S.C. § 1446(d). A copy of those Notices are attached hereto as **Exhibit E**.

11. By filing this Notice of Removal, Defendant does not waive any claims or defenses that may be available to it. This includes any legal or equitable claims or defenses, counterclaims, and/or right to arbitration or other remedy or procedural mechanism.

12. Defendant demands a jury of the maximum number to try this case.

WHEREFORE, Defendant prays this Court consider the Notice of Removal as provided by law governing removal of cases to this Court and that this Court enter the appropriate orders to effect the removal of this case from the Davidson County Circuit Court to the United States District Court for the Middle District of Tennessee, Nashville Division.

Respectfully submitted,

/s/ Jamie A. Leaver

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CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of May, 2025, a true and correct copy of the foregoing Notice of Removal was sent by United States mail, postage prepaid, and/or electronic means as follows:

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By: */s/ Jamie A. Leaver*
Jamie A. Leaver